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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,182	06/20/2003	Fritz H. Bach	13681-012001	8996

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EXAMINER	
JONES, DAMERON LEVEST	
ART UNIT	**PAPER NUMBER**
1618	

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/600,182	BACH ET AL.	
	Examiner	Art Unit	
	D. L. Jones	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-23 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

RESTRICTION INTO GROUPS

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group (1) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with asthma, classified in class 424, subclass 9.1.

Group (2) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with adult respiratory distress syndrome, classified in class 424, subclass 9.1.

Group (3) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with interstitial pulmonary fibrosis, classified in class 424, subclass 9.1.

Group (4) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with pulmonary emboli, classified in class 424, subclass 9.1.

Group (5) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with chronic obstructive pulmonary disease, classified in class 424, subclass 9.1.

Group (6) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with primary pulmonary hypertension, classified in class 424, subclass 9.1.

Group (7) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with chronic pulmonary emphysema, classified in class 424, subclass 9.1.

Group (8) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with congestive heart failure, classified in class 424, subclass 9.1.

Group (9) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with peripheral vascular disease, classified in class 424, subclass 9.1.

Group (10) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with stroke, classified in class 424, subclass 9.1.

Group (11) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with atherosclerosis, classified in class 424, subclass 9.1.

Group (12) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with ischemia reperfusion injury, classified in class 424, subclass 9.1.

Group (13) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with heart attack, classified in class 424, subclass 9.1.

Group (14) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with glomeruloneprítis, classified in class 424, subclass 9.1.

Group (15) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with conditions involving inflammation of the kidney, classified in class 424, subclass 9.1.

Group (16) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with infection of the genitourinary tract, classified in class 424, subclass 9.1.

Group (17) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with viral hepatitis, classified in class 424, subclass 9.1.

Group (18) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with toxic hepatitis, classified in class 424, subclass 9.1.

Group (19) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with cirrhosis, classified in class 424, subclass 9.1.

Group (20) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with ileus, classified in class 424, subclass 9.1.

Group (21) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with necrotizing enterocolitis, classified in class 424, subclass 9.1.

Group (22) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with inflammatory bowel disease, classified in class 424, subclass 9.1.

Group (23) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with rheumatoid arthritis, classified in class 424, subclass 9.1.

Group (24) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with cancer, classified in class 424, subclass 9.1.

Group (25) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with wounds, classified in class 424, subclass 9.1.

Group (26) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with Alzheimer's disease, classified in class 424, subclass 9.1.

Group (27) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with Parkinson's disease, classified in class 424, subclass 9.1.

Group (28) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with graft versus host disease, classified in class 424, subclass 9.1.

Group (29) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with hemorrhagic, classified in class 424, subclass 9.1.

Group (30) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with septic, classified in class 424, subclass 9.1.

Group (31) Claims 1-15, drawn to a method of treating inflammation wherein the inflammation is associated with anaphylactic shock, classified in class 424, subclass 9.1.

Group (32) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises HO-1, classified in class 424, subclass 9.1.

Group (33) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises carbon monoxide, classified in class 424, subclass 9.1.

Group (34) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises bilirubin, classified in class 424, subclass 9.1.

Group (35) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises biliverdin, classified in class 424, subclass 9.1.

Group (36) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises ferritin, classified in class 424, subclass 9.1.

Group (37) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises iron, classified in class 424, subclass 9.1.

Group (38) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises desferoxamine, classified in class 424, subclass 9.1.

Group (39) Claims 16-20, drawn to a method of transplanting a organ, tissue, or cells wherein the pharmaceutical composition comprises salicylaldehyde isonicotinoyl hydrazone, classified in class 424, subclass 9.1.

Group (40) Claims 16-20, drawn to a method of transplanting a organ, tissue, or cells wherein the pharmaceutical composition comprises iron dextran, classified in class 424, subclass 9.1.

Group (41) Claims 16-20, drawn to a method of transplanting an organ, tissue, or cells wherein the pharmaceutical composition comprises apoferritin, classified in class 424, subclass 9.1.

Group (42) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises HO-1, classified in class 424, subclass 9.1.

Group (43) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises carbon monoxide, classified in class 424, subclass 9.1.

Group (44) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises bilirubin, classified in class 424, subclass 9.1.

Group (45) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises biliverdin, classified in class 424, subclass 9.1.

Group (46) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises ferritin, classified in class 424, subclass 9.1.

Group (47) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises iron, classified in class 424, subclass 9.1.

Group (48) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises desferoxamine, classified in class 424, subclass 9.1.

Group (49) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises salicylaldehyde isonicotinoyl hydrazone, classified in class 424, subclass 9.1.

Group (50) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises iron dextran, classified in class 424, subclass 9.1.

Group (51) Claims 21, drawn to a method of performing angioplasty on a subject wherein the pharmaceutical composition comprises apoferritin, classified in class 424, subclass 9.1.

Group (52) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises HO-1, classified in class 424, subclass 9.1.

Group (53) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises carbon monoxide, classified in class 424, subclass 9.1.

Group (54) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises bilirubin, classified in class 424, subclass 9.1.

Group (55) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises biliverdin, classified in class 424, subclass 9.1.

Group (56) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises ferritin, classified in class 424, subclass 9.1.

Group (57) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises iron, classified in class 424, subclass 9.1.

Group (58) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises desferoxamine, classified in class 424, subclass 9.1.

Group (59) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises salicylaldehyde isonicotinoyl hydrazone, classified in class 424, subclass 9.1.

Group (60) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises iron dextran, classified in class 424, subclass 9.1.

Group (61) Claims 22-23, drawn to a method of treating naturally arising cancer wherein the pharmaceutical composition comprises apoferritin, classified in class 424, subclass 9.1.

Note: Claims appearing in more than one Group will only be examined to the extent that they read on the elected invention.

2. The inventions are distinct, each from the other because of the following reasons:

I. Inventions (1) – (31) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are directed to methods of reducing inflammation associated with various conditions that are non-obvious over one another or anticipate one another. Thus, prior art, which anticipates or renders obvious one group would neither anticipate nor render obvious another group.

II. Inventions (32) – (41) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are directed to a method of transplanting organs, cells, or tissues wherein various distinct compositions may be used. Thus, prior art, which anticipates or render obvious one group would neither anticipate nor render obvious another group.

III. Inventions (42) – (51) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are directed to a method of performing angioplasty using distinct pharmaceutical compositions. Thus, prior art which anticipates or renders obvious one group would neither anticipate nor render obvious another group.

IV. Inventions (52) – (61) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are directed to a method of treating cancer using distinct pharmaceutical compositions. Thus, prior art which anticipates or renders obvious one group would neither anticipate nor render obvious another group.

Note: It should be noted that while some of the inventions classify in the same subclass, a separate search is required since the pharmaceutical compositions and medical conditions present in each Group is distinct from one another.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

ELECTION OF SPECIES

3. Claims 1-23 are generic to a plurality of disclosed patentably distinct species comprising various pharmaceutical compositions that may be used for various medical conditions as set forth in independent claims 1, 15, 16, 17, 18, 21, and 22. Applicant is required under 35 U.S.C. 121 to *elect a single disclosed species from within the elected Group (if appropriate) above for search purposes*, even though this requirement is traversed.

Note: Applicant is respectfully requested to elect a single disclose species from within the elected group for search purposes. If appropriate for the elected group, Applicant is respectfully requested to identify the pharmaceutical composition (e.g., if one of Groups 1-31 is elected); the type of cancer (e.g., if one of Groups 24 or 52-61 is elected); and the organ being transplanted (e.g., if one of Groups 32-41 is elected).

4. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Due to the complexity of the restriction requirement, a telephone call was not made to request an oral election to the above restriction requirement.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D. L. Jones
Primary Examiner
Art Unit 1618

July 21, 2005